

FIRST REGULAR SESSION

# HOUSE BILL NO. 379

## 97TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES KELLEY (127) (Sponsor), SPENCER, DAVIS, ENTLICHER, LANT, FUNDERBURK, CRAWFORD, REIBOLDT, GANNON, FOWLER, LYNCH, LOVE, HOUGHTON, REDMON, HIGDON, KOENIG, BURLISON, FITZPATRICK, KEENEY, BERRY, GRISAMORE, ANDERSON, BAHR, HAAHR, CURTMAN, SOMMER, SCHATZ, REMOLE, SMITH (120) AND BERNSKOETTER (Co-sponsors).

0912L.01H

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal section 571.101, RSMo, and to enact in lieu thereof one new section relating to anonymous fingerprint background checks, with a penalty provision.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 571.101, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 571.101, to read as follows:

571.101. 1. All applicants for concealed carry endorsements issued pursuant to subsection [7] **8** of this section must satisfy the requirements of sections 571.101 to 571.121. If the said applicant can show qualification as provided by sections 571.101 to 571.121, the county or city sheriff shall issue a certificate of qualification for a concealed carry endorsement. Upon receipt of such certificate, the certificate holder shall apply for a driver's license or nondriver's license with the director of revenue in order to obtain a concealed carry endorsement. Any person who has been issued a concealed carry endorsement on a driver's license or nondriver's license and such endorsement or license has not been suspended, revoked, cancelled, or denied may carry concealed firearms on or about his or her person or within a vehicle. A concealed carry endorsement shall be valid for a period of three years from the date of issuance or renewal. The concealed carry endorsement is valid throughout this state.

2. A certificate of qualification for a concealed carry endorsement issued pursuant to subsection [7] **8** of this section shall be issued by the sheriff or his or her designee of the county or city in which the applicant resides, if the applicant:

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

- 15 (1) Is at least twenty-one years of age, is a citizen of the United States and either:  
16 (a) Has assumed residency in this state; or  
17 (b) Is a member of the Armed Forces stationed in Missouri, or the spouse of such  
18 member of the military;
- 19 (2) Is at least twenty-one years of age, or is at least eighteen years of age and a member  
20 of the United States Armed Forces or honorably discharged from the United States Armed  
21 Forces, and is a citizen of the United States and either:  
22 (a) Has assumed residency in this state;  
23 (b) Is a member of the Armed Forces stationed in Missouri; or  
24 (c) The spouse of such member of the military stationed in Missouri and twenty-one  
25 years of age;
- 26 (3) Has not pled guilty to or entered a plea of nolo contendere or been convicted of a  
27 crime punishable by imprisonment for a term exceeding one year under the laws of any state or  
28 of the United States other than a crime classified as a misdemeanor under the laws of any state  
29 and punishable by a term of imprisonment of one year or less that does not involve an explosive  
30 weapon, firearm, firearm silencer or gas gun;
- 31 (4) Has not been convicted of, pled guilty to or entered a plea of nolo contendere to one  
32 or more misdemeanor offenses involving crimes of violence within a five-year period  
33 immediately preceding application for a certificate of qualification for a concealed carry  
34 endorsement or if the applicant has not been convicted of two or more misdemeanor offenses  
35 involving driving while under the influence of intoxicating liquor or drugs or the possession or  
36 abuse of a controlled substance within a five-year period immediately preceding application for  
37 a certificate of qualification for a concealed carry endorsement;
- 38 (5) Is not a fugitive from justice or currently charged in an information or indictment  
39 with the commission of a crime punishable by imprisonment for a term exceeding one year under  
40 the laws of any state of the United States other than a crime classified as a misdemeanor under  
41 the laws of any state and punishable by a term of imprisonment of two years or less that does not  
42 involve an explosive weapon, firearm, firearm silencer, or gas gun;
- 43 (6) Has not been discharged under dishonorable conditions from the United States  
44 Armed Forces;
- 45 (7) Has not engaged in a pattern of behavior, documented in public records, that causes  
46 the sheriff to have a reasonable belief that the applicant presents a danger to himself or others;
- 47 (8) Is not adjudged mentally incompetent at the time of application or for five years prior  
48 to application, or has not been committed to a mental health facility, as defined in section  
49 632.005, or a similar institution located in another state following a hearing at which the  
50 defendant was represented by counsel or a representative;

51           (9) Submits a completed application for a certificate of qualification as described in  
52 subsection 3 of this section;

53           (10) Submits an affidavit attesting that the applicant complies with the concealed carry  
54 safety training requirement pursuant to subsections 1 and 2 of section 571.111;

55           (11) Is not the respondent of a valid full order of protection which is still in effect.

56           3. The application for a certificate of qualification for a concealed carry endorsement  
57 issued by the sheriff of the county of the applicant's residence shall contain only the following  
58 information:

59           (1) The applicant's name, address, telephone number, gender, and date and place of birth;

60           (2) An affirmation that the applicant has assumed residency in Missouri or is a member  
61 of the Armed Forces stationed in Missouri or the spouse of such a member of the Armed Forces  
62 and is a citizen of the United States;

63           (3) An affirmation that the applicant is at least twenty-one years of age or is eighteen  
64 years of age or older and a member of the United States Armed Forces or honorably discharged  
65 from the United States Armed Forces;

66           (4) An affirmation that the applicant has not pled guilty to or been convicted of a crime  
67 punishable by imprisonment for a term exceeding one year under the laws of any state or of the  
68 United States other than a crime classified as a misdemeanor under the laws of any state and  
69 punishable by a term of imprisonment of one year or less that does not involve an explosive  
70 weapon, firearm, firearm silencer, or gas gun;

71           (5) An affirmation that the applicant has not been convicted of, pled guilty to, or entered  
72 a plea of nolo contendere to one or more misdemeanor offenses involving crimes of violence  
73 within a five-year period immediately preceding application for a certificate of qualification to  
74 obtain a concealed carry endorsement or if the applicant has not been convicted of two or more  
75 misdemeanor offenses involving driving while under the influence of intoxicating liquor or drugs  
76 or the possession or abuse of a controlled substance within a five-year period immediately  
77 preceding application for a certificate of qualification to obtain a concealed carry endorsement;

78           (6) An affirmation that the applicant is not a fugitive from justice or currently charged  
79 in an information or indictment with the commission of a crime punishable by imprisonment for  
80 a term exceeding one year under the laws of any state or of the United States other than a crime  
81 classified as a misdemeanor under the laws of any state and punishable by a term of  
82 imprisonment of two years or less that does not involve an explosive weapon, firearm, firearm  
83 silencer or gas gun;

84           (7) An affirmation that the applicant has not been discharged under dishonorable  
85 conditions from the United States Armed Forces;

86 (8) An affirmation that the applicant is not adjudged mentally incompetent at the time  
87 of application or for five years prior to application, or has not been committed to a mental health  
88 facility, as defined in section 632.005, or a similar institution located in another state, except that  
89 a person whose release or discharge from a facility in this state pursuant to chapter 632, or a  
90 similar discharge from a facility in another state, occurred more than five years ago without  
91 subsequent recommitment may apply;

92 (9) An affirmation that the applicant has received firearms safety training that meets the  
93 standards of applicant firearms safety training defined in subsection 1 or 2 of section 571.111;

94 (10) An affirmation that the applicant, to the applicant's best knowledge and belief, is  
95 not the respondent of a valid full order of protection which is still in effect; and

96 (11) A conspicuous warning that false statements made by the applicant will result in  
97 prosecution for perjury pursuant to the laws of the state of Missouri.

98 4. An application for a certificate of qualification for a concealed carry endorsement shall  
99 be made to the sheriff of the county or any city not within a county in which the applicant  
100 resides. An application shall be filed in writing, signed under oath and under the penalties of  
101 perjury, and shall state whether the applicant complies with each of the requirements specified  
102 in subsection 2 of this section. In addition to the completed application, the applicant for a  
103 certificate of qualification for a concealed carry endorsement must also submit the following:

104 (1) A photocopy of a firearms safety training certificate of completion or other evidence  
105 of completion of a firearms safety training course that meets the standards established in  
106 subsection 1 or 2 of section 571.111; [and]

107 (2) A nonrefundable certificate of qualification fee as provided by subsection [10 or] 11  
108 **or 12 of this section; and**

109 **(3) A nonrefundable anonymous fingerprint background check fee as provided for**  
110 **in subsection 11 of this section, if an anonymous fingerprint background check is requested**  
111 **by the applicant.**

112 5. Before an application for a certificate of qualification for a concealed carry  
113 endorsement is approved, the sheriff shall make only such inquiries as he or she deems necessary  
114 into the accuracy of the statements made in the application. The sheriff may require that the  
115 applicant display a Missouri driver's license or nondriver's license or military identification and  
116 orders showing the person being stationed in Missouri. In order to determine the applicant's  
117 suitability for a certificate of qualification for a concealed carry endorsement, the applicant shall  
118 be fingerprinted. The sheriff shall request a criminal background check through the appropriate  
119 law enforcement agency within three working days after submission of the properly completed  
120 application for a certificate of qualification for a concealed carry endorsement. If no  
121 disqualifying record is identified by the fingerprint check at the state level, the fingerprints shall

be forwarded to the Federal Bureau of Investigation for a national criminal history record check. Upon receipt of the completed background check, the sheriff shall issue a certificate of qualification for a concealed carry endorsement within three working days. The sheriff shall issue the certificate within forty-five calendar days if the criminal background check has not been received, provided that the sheriff shall revoke any such certificate and endorsement within twenty-four hours of receipt of any background check that results in a disqualifying record, and shall notify the department of revenue.

**6. An applicant may request that the fingerprint background check be done anonymously. If such request is made the sheriff shall submit the fingerprint background check with a tracking number instead of any personal identifying information. The appropriate law enforcement agencies shall report the results of anonymous fingerprint background checks to the sheriff in the same manor as those submitted with personal identifying information. The sheriff may charge an additional fee for the anonymous fingerprint background check as provided in subsection 11 of this section.**

7. The sheriff may refuse to approve an application for a certificate of qualification for a concealed carry endorsement if he or she determines that any of the requirements specified in subsection 2 of this section have not been met, or if he or she has a substantial and demonstrable reason to believe that the applicant has rendered a false statement regarding any of the provisions of sections 571.101 to 571.121. If the applicant is found to be ineligible, the sheriff is required to deny the application, and notify the applicant in writing, stating the grounds for denial and informing the applicant of the right to submit, within thirty days, any additional documentation relating to the grounds of the denial. Upon receiving any additional documentation, the sheriff shall reconsider his or her decision and inform the applicant within thirty days of the result of the reconsideration. The applicant shall further be informed in writing of the right to appeal the denial pursuant to subsections 2, 3, 4, and 5 of section 571.114. After two additional reviews and denials by the sheriff, the person submitting the application shall appeal the denial pursuant to subsections 2, 3, 4, and 5 of section 571.114.

[7.] **8.** If the application is approved, the sheriff shall issue a certificate of qualification for a concealed carry endorsement to the applicant within a period not to exceed three working days after his or her approval of the application. The applicant shall sign the certificate of qualification in the presence of the sheriff or his or her designee and shall within seven days of receipt of the certificate of qualification take the certificate of qualification to the department of revenue. Upon verification of the certificate of qualification and completion of a driver's license or nondriver's license application pursuant to chapter 302, the director of revenue shall issue a new driver's license or nondriver's license with an endorsement which identifies that the applicant has received a certificate of qualification to carry concealed weapons issued pursuant

to sections 571.101 to 571.121 if the applicant is otherwise qualified to receive such driver's license or nondriver's license. Notwithstanding any other provision of chapter 302, a nondriver's license with a concealed carry endorsement shall expire three years from the date the certificate of qualification was issued pursuant to this section. The requirements for the director of revenue to issue a concealed carry endorsement pursuant to this subsection shall not be effective until July 1, 2004, and the certificate of qualification issued by a county sheriff pursuant to subsection 1 of this section shall allow the person issued such certificate to carry a concealed weapon pursuant to the requirements of subsection 1 of section 571.107 in lieu of the concealed carry endorsement issued by the director of revenue from October 11, 2003, until the concealed carry endorsement is issued by the director of revenue on or after July 1, 2004, unless such certificate of qualification has been suspended or revoked for cause.

[8.] 9. The sheriff shall keep a record of all applications for a certificate of qualification for a concealed carry endorsement and his or her action thereon. The sheriff shall report the issuance of a certificate of qualification to the Missouri uniform law enforcement system. All information on any such certificate that is protected information on any driver's or nondriver's license shall have the same personal protection for purposes of sections 571.101 to 571.121. An applicant's status as a holder of a certificate of qualification or a concealed carry endorsement shall not be public information and shall be considered personal protected information. Any person who violates the provisions of this subsection by disclosing protected information shall be guilty of a class A misdemeanor.

[9.] 10. Information regarding any holder of a certificate of qualification or a concealed carry endorsement is a closed record.

[10.] 11. For processing an application for a certificate of qualification for a concealed carry endorsement pursuant to sections 571.101 to 571.121, the sheriff in each county shall charge a nonrefundable fee not to exceed one hundred dollars which shall be paid to the treasury of the county to the credit of the sheriff's revolving fund. **For processing an anonymous fingerprint background check requested under subsection 6 of this section, the sheriff in each county may charge an additional nonrefundable fee in an amount not to exceed one hundred dollars, which shall be paid to the treasury of the county to the credit of the sheriff's revolving fund.**

[11.] 12. For processing a renewal for a certificate of qualification for a concealed carry endorsement pursuant to sections 571.101 to 571.121, the sheriff in each county shall charge a nonrefundable fee not to exceed fifty dollars which shall be paid to the treasury of the county to the credit of the sheriff's revolving fund.

**13. The Missouri state highway patrol is hereby authorized to conduct anonymous fingerprint background checks under this section and to charge up to, but no more than,**

194 the same fee charged for the complete criminal background check required under this  
195 section.

196 **14. Whenever an applicant has requested an anonymous fingerprint background**  
197 **check and the results of that check do not disqualify the applicant for a certificate of**  
198 **qualification for a concealed carry endorsement, all records of the fingerprints submitted**  
199 **anonymously, including all methods of storage or archiving shall be purged of any record**  
200 **of the applicant's fingerprints in both the sheriff's records and the records of any law**  
201 **enforcement agency to which the fingerprints were submitted.**

202 [12.] **15.** For the purposes of sections 571.101 to 571.121, the term "sheriff" shall include  
203 the sheriff of any county or city not within a county or his or her designee and in counties of the  
204 first classification the sheriff may designate the chief of police of any city, town, or municipality  
205 within such county.

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